

Everett, Adolph

From: Plevin, Lisa
Sent: Tuesday, March 18, 2014 6:13 PM
To: Andrew@Voros
Cc: Flax, Phil; Everett, Adolph
Subject: Fw: Soil Safe
Attachments: soil safe20140317_0155.pdf

Fyi. Not sure if you saw this yet.

From: Plevin, Lisa
Sent: Tuesday, March 18, 2014 10:32:46 AM
To: Debbie Mans
Subject: Soil Safe

Fyi – our response to EastStar re: Soil Safe. Please share with the others that attended the meeting. Thx.

Lisa J. Plevin
Chief of Staff, USEPA Reg. 2
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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NEW YORK, NY 10007-1866

Albert B. Free, President
EastStar Environmental Group, Inc.
10280 Old Columbia Road
Suite 265
Columbia, MD 21046

MAR 11 2014

Re.: April 21, 2008 Assertion on EPA Region 2 Statement on Soil Safe Product

Dear Mr. Free:

I make reference to the enclosed letter that you sent to Mr. Atwood Davis of NJDEP dated April 21, 2008, regarding your firm's response to a Notice of Deficiency, issued by NJDEP, on the Remedial Action Work Plan for the Gloucester County Park. Specifically, on page 6 of the letter, a statement was made in the second paragraph which asserted EPA Region 2 reviewed and approved the Soil Safe process. This is not accurate and it is imperative that EastStar stop making this claim. EPA does not endorse the Soil Safe Product.

Thank you for your February 24, 2014 email transmittal of reference materials which you assert supports that statement. You provided these materials as a follow-up to a February 20, 2014 phone conversation with Walter Mugdan, Director of EPA Region 2's Emergency and Remedial Response Division, Ariel Iglesias, Deputy Director of the Clean Air and Sustainability Division, and Adolph Everett, Chief of the Hazardous Waste Programs Branch.

However, be informed that the assertion that EPA Region 2 reviewed and approved the Soil Safe process is not accurate. We base our position on our review of the reference materials you provided, specifically the two letters (also enclosed) issued in 1996 from Kenneth Eng, Chief of the Air Compliance Branch, concerning the construction of a landfill cap at a closed landfill in the City of Salem, NJ (hereinafter referred to as the Salem Landfill facility).

In large part, the first letter dated January 30, 1996, addressed mainly air permitting and air compliance matters. However, on the second page, first paragraph of the letter EPA Region 2 made the following general statement, "while EPA views the solidification/stabilization process, or the mixing of contaminated soil and cement, as a less favored treatment of soil with VOCs, it is a viable treatment technology, providing certain safeguards are in place." EPA did not directly address the appropriateness of the Soil Safe process.

The issuance date of the second letter is not clear but appears to have been faxed to Soil Safe on December 12, 2006. In this letter, in addition to air permitting and air compliance issues, EPA Region 2 addressed specific concerns raised about the solidification/stabilization process as a method for treating petroleum contaminated soil for use as a landfill cap at the same Salem Landfill facility. In this letter we provided a general statement of the solidification/stabilization process as an effective treatment technology, and we addressed concerns about the potential liability of contributing generators.

In the same letter EPA also provides the findings of our review of applicable federal statute, regulation and guidance along with applicable state requirements for the Salem Landfill facility to make two facility-specific determinations. One determination was the suggested applicability of the RCRA land disposal restrictions mandated under the Hazardous and Solid Waste Amendments of 1984 (HSWA). Upon our review of the state requirements for the facility and the cap we determined the HSWA-mandated land disposal restrictions did not apply.

The second determination concerned exceptions to avoiding solidification/stabilization treatment of organic wastes. Based on review of the referenced guidance document and the facility-specific conditions imposed by NJDEP, we determined that the material managed at the Salem Landfill facility could be characterized as having a low level of [petroleum hydrocarbon] contamination. Once again, the specific Soil Safe process was not addressed.

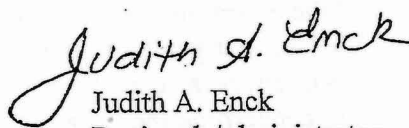
We disagree that the language contained in either letter constitutes review and approval of the Soil Safe process or product. In neither letter is Soil Safe ever mentioned by name.

We also reviewed the June 1992 EPA document you transmitted to us, *Potential Reuse of Petroleum Contaminated Soil: A Directory of Permitted Recycling Facilities*. In this document we noted Table 3 provides a list of permitted facilities organized by EPA Region; however, EPA was not the permitting authority for those facilities listed under Region 2.

You mentioned in your email transmittal that you may have and are looking for other documents that support the statement. If this is the case, please provide them to us and we will review them.

Should you have any questions, please feel free to contact Adolph Everett, Chief, Hazardous Waste Programs Branch of my staff at (212) 637-4109.

Sincerely yours,


Judith A. Enck
Regional Administrator

Enclosures

cc: Robert Martin, Commissioner, NJDEP